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CITY CHARTER PROVISIONS FOR NOMINATION AND ELECTION OF OFFICERS

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CITY CHARTER PROVISIONS FOR NOMINATION AND ELECTION OF OFFICERS. Senate Constitutional Amendment 9. Amends Section 8½ of Article XI of Constitution. Adds provision permitting
19 city or city and county charters to provide any mode for the nomination and/or election of officers of such city or city and county, and to adopt and provide for any system of proportional representation on the legislative body thereof, also the manner of voting under such system.

YES

NO

(For full text of measure, see page 23, Part II)

Argument in Favor of Senate Constitutional Amendment No. 9

In accordance with the recommendation of the recent State Constitutional Commission, this amendment to our Constitution, as well as Constitutional Amendment No. 8, was suggested to provide other methods of election and representation for the legislative bodies of our chartered cities.

If approved by the people this amendment will permit those cities which are governed under a freeholders' charter to adopt other systems for the nomination and election of their officials than the one to which they are now limited by the Constitution and general laws, also permitting them to adopt other methods of representation in their legislative bodies.

It is designed to overcome the objections raised by the courts in the case of "People v. Elkus", Vol. 59, California Appellate Reports, page 396, wherein the election system provided in one of our city charters was declared invalid.

Every student of American government will agree that our cities and towns should be encouraged to use such improved methods as may be devised from time to time for the more effective and satisfactory administration of municipal government. If there are better modes of election or superior systems of representation for our legislative bodies than those to which they are now restricted by the Constitution and general laws, the people of our chartered cities should be authorized to employ

them, if they so desire. Why should that right be denied?

Cities everywhere have been burdened with "boss rule" and the iniquitous "spoils system", as the result of which millions of dollars of the taxpayers' money have been wasted in extravagance and misgovernment. Why not permit the cities to adopt some other plan of election and representation which would do away with "machine" politics and save the taxpayers vast sums that are now wasted in needless "spoils"?

One of the plans which could be adopted is known as Proportional Representation. It is a system whereby minority groups receiving a certain number of votes would secure representatives on the legislative body or city council in proportion to the total number of votes cast. Its use would have the effect of arousing more interest in municipal government and encouraging the people to vote because of the fact that under the system every vote cast is effective in the election of one or more candidates. It is being used successfully in a number of our eastern cities and with greater satisfaction to the people. Why not permit its use in California?

The amendment has the support and endorsement of all groups of our citizenry who sponsor the "home rule" theory of our American democracy. We know of no valid opposition.

GEORGE W. ROCHESTER,
State Senator, 37th District.

HERBERT C. JONES,
State Senator, 18th District.

PART II
APPENDIX

provide that each such borough or district may exercise such general or special municipal powers, and to be administered in such manner, as may be prescribed provided for each such borough or district in such the charter; provided, however, that after the creation of any such borough, the powers thereof shall not be modified, amended or abridged in any manner without the consent of a majority of the qualified electors of such borough voting at a regular or special election of the city, or city and county.

The percentages of the registered electors herein required for the election of freeholders or the submission of amendments to charters shall be calculated upon the total vote cast in the city or city and county at the last preceding general state election; and the qualified electors shall be those whose names appear upon the registration records of the same or preceding year. The election laws of such city, or city and county shall, so far as applicable, govern all elections held under the authority of this section.

AUTHORIZING BOARD OF SUPERVISORS TO DRAFT COUNTY CHARTER. Assembly Constitutional Amendment 23. Adds Section 7¼

18 to Article XI of Constitution. Confers upon board of supervisors of any county same power to draft a proposed charter for said county as is conferred upon board of freeholders elected under Section 7½ of Article XI; declares provisions of latter section shall otherwise apply in every respect to such proposed charter.

YES	
NO	

Assembly Constitutional Amendment No. 23—A resolution to propose to the people of the State of California, an amendment to the constitution of said state by adding to article eleven thereof, a new section to be numbered 7¼, relative to the drafting of charters for counties by boards of supervisors.

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its regular session commencing on the fifth day of January, 1931, two-thirds of the members elected to each of the two houses of the said Legislature voting therefor, hereby proposes to the people of the State of California, that the constitution of said state be

amended by adding to article eleven thereof, a new section to be numbered 7¼, and to read as follows:

(This proposed amendment does not expressly amend any existing section of the constitution, but adds a new section thereto; therefore, the provisions thereof are printed in BLACK-FACED TYPE to indicate that they are NEW.)

PROPOSED AMENDMENT TO THE CONSTITUTION.

Sec. 7¼. The board of supervisors of any county may draft a proposed charter for the county as if said board were a board of freeholders elected under the provisions of section 7½ of this article, and the provisions of said section shall otherwise apply in every respect to such proposed charter.

CITY CHARTER PROVISIONS FOR NOMINATION AND ELECTION OF OFFICERS. Senate Constitutional Amendment 9. Amends Section 8½

19 8½ of Article XI of Constitution. Adds provision permitting city or city and county charters to provide any mode for the nomination and/or election of officers of such city or city and county, and to adopt and provide for any system of proportional representation on the legislative body thereof, also the manner of voting under such system.

YES	
NO	

Senate Constitutional Amendment No. 9—A resolution to propose to the people of the State of California, an amendment to the constitution of said state by amending section 8½ of article eleven of the constitution of said state, relating to city charters and to the mode of elections held thereunder.

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its regular session commencing on the fifth day of January, 1931, two-thirds of the members elected to each of the two houses of the said Legislature voting therefor, hereby proposes to the people of the State of

California, that the constitution of said state be amended by amending section 8½ of article eleven thereof to read as follows:

(This proposed amendment expressly amends an existing section of the constitution; therefore EXISTING PROVISIONS proposed to be DELETED, if any, are printed in STRIKE-OUT TYPE; and NEW PROVISIONS proposed to be INSERTED are printed in BLACK-FACED TYPE.)

PROPOSED AMENDMENT TO THE CONSTITUTION.

Sec. 8½. It shall be competent, in all charters framed under the authority given by section 8 of

this article, to provide, in addition to those provisions allowable by this constitution, and by the laws of the state as follows:

1. For the constitution, regulation, government, and jurisdiction of police courts, and for the manner in which, the times at which, and the terms for which the judges of such courts shall be elected or appointed, and for the qualifications and compensation of said judges and of their clerks and attaches; and for the establishment, constitution, regulation, government and jurisdiction of municipal courts and judges thereof, with such civil, criminal and magisterial jurisdiction as by law may be conferred upon inferior courts and judges thereof; and for the manner in which, the times at which and the terms for which the judges of such courts shall be elected or appointed, and for the qualifications and compensation of said judges and of their clerks and attaches; provided, such municipal courts shall never be deprived of the jurisdiction given inferior courts created by general law.

In any city or any city and county, when such municipal court has been established, there shall be no other court inferior to the superior court; and pending actions, trials, and all pending business of inferior courts within the territory of such city or city and county, upon the establishment of any such municipal court, shall be and become pending in such municipal court, and all records of such inferior court shall thereupon be and become the records of such municipal court.

2. For the manner in which, the times at which, and the terms for which the members of boards of education shall be elected or appointed, for their qualifications, compensation and removal, and for the number which shall constitute any one of such boards.

3. For the manner in which, the times at which and the terms for which the members of the boards of police commissioners shall be elected or appointed; and for the constitution, regulation, compensation, and government of such boards and of the municipal police force.

4. For the manner in which and the times at which any municipal election shall be held and the result thereof determined; for the manner in which, the times at which, and the terms for which the members of all boards of election shall be elected or appointed, and for the constitution, regulation, compensation and government of such boards, and of their clerks and attaches, and for all expenses incident to the holding of any election.

It shall be competent in any charter framed in accordance with the provisions of this section, or section 8 of this article, for any city or consolidated city and county, and plenary authority is hereby granted, subject only to the restrictions of this article, to provide therein or by amendment thereto, the manner in which, the method by which, the times at which, and the terms for which the several county and municipal officers and employees whose compensation

is paid by such city or city and county, excepting judges of the superior court, shall be elected or appointed, and for their recall and removal, and for their compensation, and for the number of deputies, clerks and other employees that each shall have, and for the compensation, method of appointment, qualifications, tenure of office and removal of such deputies, clerks and other employees. All provisions of any charter of any such city or consolidated city and county, heretofore adopted, and amendments thereto, which are in accordance herewith, are hereby confirmed and declared valid.

It shall be competent in such charters to provide any mode for the nomination and/or election of the officers of such city or city and county, and to adopt and provide for any system of proportional representation on the legislative body thereof, also the manner of voting under such system.

5. It shall be competent in any charter or amendment thereof, which shall hereafter be framed under the authority given by section 8 of this article, by any city having a population in excess of fifty thousand ascertained as prescribed by said section 8, to provide for the separation of said city from the county of which it has theretofore been a part and the formation of said city into a consolidated city and county to be governed by such charter, and to have combined powers of a city and county, as provided in this constitution for consolidated city and county government, and further to prescribe in said charter the date for the beginning of the official existence of said consolidated city and county.

It shall also be competent for any such city, not having already consolidated as a city and county to hereafter frame, in the manner prescribed in section 8 of this article, a charter providing for a city and county government, in which charter there shall be prescribed territorial boundaries which may include contiguous territory not included in such city, which territory, however, must be included in the county within which such city is located.

If no additional territory is proposed to be added, then, upon the consent to the separation of any such city from the county in which it is located, being given by a majority of the qualified electors voting thereon in such county and upon the ratification of such charter by a majority of the qualified electors voting thereon in such city, and the approval thereof by the Legislature, as prescribed in section 8 of this article, said charter shall be deemed adopted and upon the date fixed therein said city shall be and become a consolidated city and county.

If additional territory which consists wholly of only one incorporated city or town, or which consists wholly of unincorporated territory, is proposed to be added, then, upon the consent to such separation of such territory and of the city initiating the consolidation proposal being given by a majority of the qualified electors voting thereon in the county in which the city proposing such separation is located, and upon the ratification of such charter by a majority of the qualified electors voting thereon in such city so pro-

posing the separation, and also upon the approval of the proposal hereinafter set forth, by a majority of the qualified electors voting thereon in the whole of such additional territory, and the approval of said charter by the Legislature, as prescribed in section 8 of this article, said charter shall be deemed adopted, the indebtedness hereinafter referred to shall be deemed to have been assumed, and upon the date fixed in said charter such territory and such city shall be and become one consolidated city and county.

The proposal to be submitted to the territory proposed to be added shall be substantially in the following form and submitted as one indivisible question:

"Shall the territory (herein designate in general terms the territory to be added) consolidate with the city of (herein insert name of the city initiating the proposition to form a city and county government) in a consolidated city and county government, and shall the charter as prepared by the city of (herein insert the name of the city initiating such proposition) be adopted as the charter of the consolidated city and county, and shall the said added territory become subject to taxation along with the entire territory of the proposed city and county, in accordance with the assessable valuation of the property of the said territory, for the following indebtedness of said city (herein insert name of the city initiating such proposition) to wit: (herein insert in general terms reference to any debts to be assumed, and if none insert 'none')?"

If additional territory is proposed to be added, which includes unincorporated territory and one or more incorporated cities or towns, or which includes more than one incorporated city or town, the consent of any such incorporated city or town shall be obtained by a majority vote of the qualified electors thereof voting upon a proposal substantially as follows:

"Shall (herein insert the name of the city or town to be included in such additional territory) be included in a district to be hereafter defined by the city of (herein insert the name of the city initiating the proposition to form a city and county government) which district shall, within two years from the date of this election, vote upon a proposal submitted as one indivisible question that such district to be then described and set forth shall consolidate with (herein insert name of the city initiating said consolidation proposition) in a consolidated city and county government, and also that a certain charter, to be prepared by the city of (herein insert name of the city initiating such proposition) be adopted as the charter of such consolidated city and county, and that such district become subject to taxation along with the entire territory of the proposed city and county in accordance with the assessable valuation of the property of said district for the following indebtedness of said city of (herein insert name of the city initiating such proposition) to wit: (herein insert in general terms, reference to any debts to be assumed and if none insert 'none')?"

Any and all incorporated cities or towns to which the foregoing proposal shall have been submitted and

a majority of whose qualified electors voting thereon shall have voted in favor thereof, together with such unincorporated territory as the city initiating such consolidation proposal may desire to have included, the whole to form an area contiguous to said city, shall be created into a district by such city, and the proposal substantially as above prescribed to be used when the territory proposed to be added consists wholly of only one incorporated city or town, or wholly of unincorporated territory, shall, within two years, be submitted to the voters of said entire district as one indivisible question.

Upon consent to the separation of such district and of the city initiating the consolidation proposal being given by a majority of the qualified electors voting thereon in the county in which the city proposing such separation is located, and upon the ratification of such charter by a majority of the qualified electors voting thereon in such city, and upon the approval of the proposal hereinbefore set forth by a majority of the qualified electors voting thereon in the whole of said district so proposed to be added, and upon the approval of said charter by the Legislature, as prescribed in section 8 of this article, said charter shall be deemed adopted, the said indebtedness referred to in said proposal shall be deemed to have been assumed, and upon the date fixed in said charter, such district and such city shall be and become one consolidated city and county.

6. It shall be competent for any consolidated city and county now existing, or which shall hereafter be organized, to annex territory contiguous to such consolidated city and county, unincorporated or otherwise, whether situated wholly in one county, or parts thereof be situate in different counties, said annexed territory to be an integral part of such city and county; provided, that such annexation of territory shall only include any part of the territory which was at the time of the original consolidation of the annexing city and county, within the county from which such annexing city and county was formed, together with territory which was concurrently, or has since such consolidation been joined in a county government with the area of the original county not included in such consolidated city and county.

If additional territory, which consists wholly of only one incorporated city, city and county or town, or which consists wholly of unincorporated territory, is proposed to be annexed to any consolidated city and county now existing or which shall hereafter be organized, then, upon the consent to any such annexation being given by a majority of the qualified electors voting thereon in any county or counties in which any such additional territory is located, and upon the approval of such annexation proposal by a majority of the qualified electors voting thereon in such city and county, and also upon the approval of the proposal hereinafter set forth by a majority of the qualified electors voting thereon in the whole of such territory proposed to be annexed, the indebtedness hereinafter referred to shall be deemed to have been assumed, and at the time stated in such proposal, such

additional territory and such city and county shall be and become one consolidated city and county, to be governed by the charter of the city and county proposing such annexation, and any subsequent amendment thereto.

The proposal to be submitted to the territory proposed to be annexed, shall be substantially in the following form and submitted as one indivisible question:

"Shall the territory (herein designate in general terms the territory to be annexed) consolidate with the city and county of (herein insert the name of the city and county initiating the annexation proposal) in a consolidated city and county government, said consolidation to take effect (herein insert date when such consolidation shall take effect) and shall the said annexed territory become subject to taxation, as an integral part of the city and county so formed, in accordance with the assessable valuation of property of said territory for the following indebtedness of said city and county of (herein insert name of the city and county) to wit: (herein insert in general terms, reference to any debts to be assumed and if none insert 'none')?"

If additional territory including unincorporated territory and one or more incorporated cities, cities and counties, or towns, or including more than one incorporated city, city and county, or town, is proposed to be annexed to any consolidated city and county now existing or which shall hereafter be organized, the consent of each such incorporated city, city and county, or town, shall be obtained by a majority vote of the qualified electors of any such incorporated city, city and county, or town, voting upon a proposal substantially as follows:

"Shall (herein insert name of the city, city and county, or town, to be included in such annexed territory) be included in a district to be hereafter defined by the city and county of (herein insert the name of the city and county initiating the annexation proposal) which district shall within two years from the date of this election vote upon a proposal submitted as one indivisible question, that such district to be then described and set forth shall consolidate with (herein insert name of the city and county initiating the annexation proposal) in a consolidated city and county government, and that such district become subject to taxation, along with the entire territory of the proposed city and county in accordance with the assessable valuation of the property of said district, for the following indebtedness of said city and county of (herein insert name of the city and county initiating the annexation proposal) to wit: (herein insert in general terms, reference to any debts to be assumed and if none insert 'none')?"

Any and all incorporated cities, cities and counties, or towns, to which the foregoing proposal shall have been submitted, and a majority of whose qualified electors voting thereon shall have voted in favor thereof, together with such unincorporated territory as the city and county initiating such annexation pro-

posal may desire to have included, the whole to form an area contiguous to said city and county, shall be created into a district by said city and county, and the proposal substantially in the form above set forth to be used when the territory proposed to be added consists wholly of only one incorporated city, city and county, or town, or wholly of unincorporated territory, shall, within said two years, be submitted to the voters of said entire district as one indivisible question.

Upon consent to any such annexation being given by a majority of the qualified electors voting thereon in any county or counties in which any such territory proposed to be annexed to said city and county is located, and upon the approval of any such annexation proposal by a majority of the qualified electors voting thereon in such city and county proposing such annexation, and also upon the approval of the proposal hereinbefore set forth by a majority of the qualified electors voting thereon in the whole of the district so proposed to be annexed, then, the said indebtedness referred to in said proposal shall be deemed to have been assumed, and upon the date stated in such annexation proposal such district and such city and county shall be and become one consolidated city and county, to be governed by the charter of the city and county proposing such annexation, and any subsequent amendment thereto.

Whenever any proposal is submitted to the electors of any county, territory, district, city, city and county, or town, as above provided, there shall be published, for at least five successive publications, in a newspaper of general circulation printed and published in any such county, territory, district, city, city and county, or town, the last publication to be not less than twenty days prior to any such election, a particular description of any territory or district to be separated, added, or annexed, together with a particular description of any debts to be assumed, as above referred to, unless such particular description is contained in the said proposal so submitted. In addition to said description, such territory shall also be designated in such notice by some appropriate name or other words of identification, by which such territory may be referred to and indicated upon the ballots to be used at any election at which the question of annexation or consolidation of additional territory is submitted as herein provided. If there be no such newspaper so printed and published in any such county, territory, district, city, city and county, or town, then such publication may be made in any newspaper of general circulation printed and published in the nearest county, city, city and county, or town where there may be such a newspaper so printed and published.

If, by the adoption of any charter, or by annexation, any incorporated municipality becomes a portion of a city and county, its property, debts and liabilities of every description shall be and become the property, debts and liabilities of such city and county.

Every city and county which shall be formed, or the

territory of which shall be enlarged as herein provided from territory taken from any county or counties, shall be liable for a just proportion of the debts and liabilities and be entitled to a just proportion of the property and assets of such county or counties, existing at the time such territory is so taken.

The provisions of this constitution applicable to cities, and cities and counties, and also those applicable to counties, so far as not inconsistent or prohibited to cities, or cities and counties, shall be applicable to such consolidated city and county government; and no provision of subdivision five or six of this section shall be construed as a restriction upon the plenary authority of any city or city and county having a freeholders' charter, as provided for in this constitution, to determine in said charter any and all matters elsewhere in this constitution authorized and not inconsistent herewith.

The Legislature shall provide for the formation of one or more counties from the portion or portions of a county or counties remaining after the formation of or annexation to a consolidated city and county, or for the transfer of such portion or portions of such original county or counties to adjoining counties. But such transfer to an adjoining county shall only be made after approval by a majority vote of the qualified electors voting thereon in such territory proposed to be so transferred.

The provisions of section 2 of this article, and also those provisions of section 3 of this article which refer to the passing of any county line within five miles of the exterior boundary of a city or town in which a county seat of any county proposed to be divided is situated, and to the reducing of the population of any county upon the establishment of a new county, and to the minimum population on the forming of a new county, shall not apply to the formation of, nor to the extension of the territory of such consolidated cities and counties, nor to the formation of new counties, nor to the annexation of existing counties, as herein specified.

Any city and county formed under this section shall have the right, if it so desires, to be designated by the official name of the city initiating the consolidation as it existed immediately prior to its adoption of a charter providing for a consolidated city and county government, except that such city and county shall be known under the style of a city and county.

It shall be competent in any charter framed for a consolidated city and county, or by amendment thereof, to provide for the establishment of a borough system of government for the whole or any part of the territory of said city and county, by which one or more districts may be created therein, which districts shall be known as boroughs and which shall exercise such municipal powers as may be granted

thereto by such charter, and for the organization, regulation, government and jurisdiction of such boroughs; provided, that in the event of such establishment or creation of a borough or boroughs, as hereinabove permitted, the boundaries thereof shall never afterwards be changed or altered, nor shall the governmental rights, powers or jurisdiction of any such borough or boroughs be thereafter limited, extended, modified or taken away, unless and until the borough or boroughs affected by such proposed change or alteration of boundaries, or by the proposed limitation, extension, modification or taking away of governmental rights, powers or jurisdiction, as the case may be, shall each have consented thereto, by the vote of a majority of the voters in each and every such borough, voting at an election or elections called and held for such purpose in each of the boroughs so affected.

No property in any territory hereafter consolidated with or annexed to any city or city and county shall be taxed for the payment of any indebtedness of such city or city and county outstanding at the date of such consolidation or annexation and for the payment of which the property in such territory was not, prior to such consolidation or annexation, subject to such taxation, unless there shall have been submitted to the qualified electors of such territory the proposition regarding the assumption of indebtedness as hereinbefore set forth and the same shall have been approved by a majority of such electors voting thereon.

7. In all cases of annexation of unincorporated territory to an incorporated city, or the consolidation of two or more incorporated cities, assumption of existing bonded indebtedness by such unincorporated territory or by either of the cities so consolidating may be made by a majority vote of the qualified electors voting thereon in the territory or city which shall assume an existing bonded indebtedness. This provision shall apply whether annexation or consolidation is effected under this section or any other section of this constitution, and the provisions of section 18 of this article shall not be a prohibition thereof.

The Legislature shall enact such general laws as may be necessary to carry out the provisions of this section and such general or special laws as may be necessary to carry out the provisions of subdivisions five and six of this section, including any such general or special act as may be necessary to permit a consolidated city and county to submit a new charter or charter amendment to take effect at the time that any consolidation, by reason of annexation to such consolidated city and county, takes effect, and, also, any such general law or special act as may be necessary to provide for any period after such consolidation, by reason of such annexation, takes effect, and prior to the adoption and approval of any such new charter or charter amendment.